IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI.W.P. NO.2112 OF 2006

Mr.Shankarlal Darra ..Petitioner
Vs.
State of Maharashtra & Anr. ..Respondents

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Mr.S.S.Butale counsel for Petitioner
Ms.S.V.Gajre A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : MARCH 9, 2007

P.C.

1. Heard the learned counsel for the petitioner-original accused, learned counsel for the respondent no.2-original complainant and the learned A.P.P. for the State.

2. Respondent no.2 has filed complaint against the petitioner under Sections 498-A, 342 and 420 of IPC which is numbered as C.C.303/SW/2004 and is pending before the learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai. The learned counsel for the petitioner states that the petitioner had cancer of colon. On account of this, the petitioner underwent left hemicolectomy and had stormy post operative period and petitioner was discharged from the hospital with colostomy. On account of these facts, the petitioner is seeking exemption from

personal appearance before the trial Court. The learned counsel for the petitioner on instructions states that the petitioner will not dispute his identity and at all times, the petitioner will be represented by an advocate before the trial Court. Looking to this fact, I am inclined to consider the prayer of the petitioner.

3. The learned Magistrate shall not insist on the personal appearance of the petitioner except at the stage of recording statement under Section 313 of Cr.P.C. and at the time of judgment. In any other case, if the learned Magistrate is of the opinion that the presence of the petitioner is absolutely necessary, on such occasion, on advance notice being given to the petitioner, the petitioner shall appear before the trial Court on that day.

4. Writ petition is disposed of.

[V.K.Tahilramani, J.]